

**Introduced by Senator DeSaulnier**

February 17, 2009

---

An act to amend, repeal, and add Section 4600 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

SB 186, as introduced, DeSaulnier. Workers' compensation: medical treatment: predesignation of physician.

Existing workers' compensation law generally requires employers to secure the payment of workers' compensation, including medical treatment, for injuries incurred by their employees that arise out of, or in the course of, employment. Existing law, until December 31, 2009, provides an employee with the right to be treated by his or her personal physician from the date of injury if specified requirements are met, including a requirement that the physician agrees to be predesignated.

This bill would delete the December 31, 2009, repeal date for those provisions pertaining to an employee's predesignation of a personal physician.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 4600 of the Labor Code is amended to
- 2 read:
- 3 4600. (a) Medical, surgical, chiropractic, acupuncture, and
- 4 hospital treatment, including nursing, medicines, medical and
- 5 surgical supplies, crutches, and apparatuses, including orthotic and
- 6 prosthetic devices and services, that is reasonably required to cure

1 or relieve the injured worker from the effects of his or her injury  
2 shall be provided by the employer. In the case of his or her neglect  
3 or refusal reasonably to do so, the employer is liable for the  
4 reasonable expense incurred by or on behalf of the employee in  
5 providing treatment.

6 (b) As used in this division and notwithstanding any other  
7 provision of law, medical treatment that is reasonably required to  
8 cure or relieve the injured worker from the effects of his or her  
9 injury means treatment that is based upon the guidelines adopted  
10 by the administrative director pursuant to Section 5307.27 or, prior  
11 to the adoption of those guidelines, the updated American College  
12 of Occupational and Environmental Medicine's Occupational  
13 Medicine Practice Guidelines.

14 (c) Unless the employer or the employer's insurer has  
15 established a medical provider network as provided for in Section  
16 4616, after 30 days from the date the injury is reported, the  
17 employee may be treated by a physician of his or her own choice  
18 or at a facility of his or her own choice within a reasonable  
19 geographic area.

20 (d) (1) If an employee has notified his or her employer in  
21 writing prior to the date of injury that he or she has a personal  
22 physician, the employee shall have the right to be treated by that  
23 physician from the date of injury if either of the following  
24 conditions exist:

25 (A) The employer provides nonoccupational group health  
26 coverage in a health care service plan, licensed pursuant to Chapter  
27 2.2 (commencing with Section 1340) of Division 2 of the Health  
28 and Safety Code.

29 (B) The employer provides nonoccupational health coverage in  
30 a group health plan or a group health insurance policy as described  
31 in Section 4616.7.

32 (2) For purposes of paragraph (1), a personal physician shall  
33 meet all of the following conditions:

34 (A) The physician is the employee's regular physician and  
35 surgeon, licensed pursuant to Chapter 5 (commencing with Section  
36 2000) of Division 2 of the Business and Professions Code.

37 (B) The physician is the employee's primary care physician and  
38 has previously directed the medical treatment of the employee,  
39 and who retains the employee's medical records, including his or  
40 her medical history. "Personal physician" includes a medical group,

1 if the medical group is a single corporation or partnership  
2 composed of licensed doctors of medicine or osteopathy, which  
3 operates an integrated multispecialty medical group providing  
4 comprehensive medical services predominantly for  
5 nonoccupational illnesses and injuries.

6 (C) The physician agrees to be predesignated.

7 (3) If the employer provides nonoccupational health care  
8 pursuant to Chapter 2.2 (commencing with Section 1340) of  
9 Division 2 of the Health and Safety Code, and the employer is  
10 notified pursuant to paragraph (1), all medical treatment, utilization  
11 review of medical treatment, access to medical treatment, and other  
12 medical treatment issues shall be governed by Chapter 2.2  
13 (commencing with Section 1340) of Division 2 of the Health and  
14 Safety Code. Disputes regarding the provision of medical treatment  
15 shall be resolved pursuant to Article 5.55 (commencing with  
16 Section 1374.30) of Chapter 2.2 of Division 2 of the Health and  
17 Safety Code.

18 (4) If the employer provides nonoccupational health care, as  
19 described in Section 4616.7, all medical treatment, utilization  
20 review of medical treatment, access to medical treatment, and other  
21 medical treatment issues shall be governed by the applicable  
22 provisions of the Insurance Code.

23 (5) The insurer may require prior authorization of any  
24 nonemergency treatment or diagnostic service and may conduct  
25 reasonably necessary utilization review pursuant to Section 4610.

26 (6) An employee shall be entitled to all medically appropriate  
27 referrals by the personal physician to other physicians or medical  
28 providers within the nonoccupational health care plan. An  
29 employee shall be entitled to treatment by physicians or other  
30 medical providers outside of the nonoccupational health care plan  
31 pursuant to standards established in Article 5 (commencing with  
32 Section 1367) of Chapter 2.2 of Division 2 of the Health and Safety  
33 Code.

34 (7) The division shall conduct an evaluation of this program  
35 and present its findings to the Governor and the Legislature on or  
36 before December 31, 2008.

37 (8) This subdivision shall remain in effect only until December  
38 31, 2009, and as of that date is repealed, unless a later enacted  
39 statute that is enacted before December 31, 2009, deletes or extends  
40 that date.

(e) (1) When at the request of the employer, the employer's insurer, the administrative director, the appeals board, or a workers' compensation administrative law judge, the employee submits to examination by a physician, he or she shall be entitled to receive, in addition to all other benefits herein provided, all reasonable expenses of transportation, meals, and lodging incident to reporting for the examination, together with one day of temporary disability indemnity for each day of wages lost in submitting to the examination.

(2) Regardless of the date of injury, "reasonable expenses of transportation" includes mileage fees from the employee's home to the place of the examination and back at the rate of twenty-one cents (\$0.21) a mile or the mileage rate adopted by the Director of the Department of Personnel Administration pursuant to Section 19820 of the Government Code, whichever is higher, plus any bridge tolls. The mileage and tolls shall be paid to the employee at the time he or she is given notification of the time and place of the examination.

(f) When at the request of the employer, the employer's insurer, the administrative director, the appeals board, or a workers' compensation administrative law judge, an employee submits to examination by a physician and the employee does not proficiently speak or understand the English language, he or she shall be entitled to the services of a qualified interpreter in accordance with conditions and a fee schedule prescribed by the administrative director. These services shall be provided by the employer. For purposes of this section, "qualified interpreter" means a language interpreter certified, or deemed certified, pursuant to Article 8 (commencing with Section 11435.05) of Chapter 4.5 of Part 1 of Division 3 of Title 2 of, or Section 68566 of, the Government Code.

(g) *This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.*

SEC. 2. Section 4600 is added to the Labor Code, to read:

4600. (a) Medical, surgical, chiropractic, acupuncture, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatuses, including orthotic and prosthetic devices and services, that is reasonably required to cure or relieve the injured worker from the effects of his or her injury

1 shall be provided by the employer. In the case of his or her neglect  
2 or refusal reasonably to do so, the employer is liable for the  
3 reasonable expense incurred by or on behalf of the employee in  
4 providing treatment.

5 (b) As used in this division and notwithstanding any other  
6 provision of law, medical treatment that is reasonably required to  
7 cure or relieve the injured worker from the effects of his or her  
8 injury means treatment that is based upon the guidelines adopted  
9 by the administrative director pursuant to Section 5307.27 or, prior  
10 to the adoption of those guidelines, the updated American College  
11 of Occupational and Environmental Medicine's Occupational  
12 Medicine Practice Guidelines.

13 (c) Unless the employer or the employer's insurer has  
14 established a medical provider network as provided for in Section  
15 4616, after 30 days from the date the injury is reported, the  
16 employee may be treated by a physician of his or her own choice  
17 or at a facility of his or her own choice within a reasonable  
18 geographic area.

19 (d) (1) If an employee has notified his or her employer in  
20 writing prior to the date of injury that he or she has a personal  
21 physician, the employee shall have the right to be treated by that  
22 physician from the date of injury if either of the following  
23 conditions exist:

24 (A) The employer provides nonoccupational group health  
25 coverage in a health care service plan, licensed pursuant to Chapter  
26 2.2 (commencing with Section 1340) of Division 2 of the Health  
27 and Safety Code.

28 (B) The employer provides nonoccupational health coverage in  
29 a group health plan or a group health insurance policy as described  
30 in Section 4616.7.

31 (2) For purposes of paragraph (1), a personal physician shall  
32 meet all of the following conditions:

33 (A) Be the employee's regular physician and surgeon, licensed  
34 pursuant to Chapter 5 (commencing with Section 2000) of Division  
35 2 of the Business and Professions Code.

36 (B) Be the employee's primary care physician and has  
37 previously directed the medical treatment of the employee, and  
38 who retains the employee's medical records, including his or her  
39 medical history. "Personal physician" includes a medical group,  
40 if the medical group is a single corporation or partnership

1 composed of licensed doctors of medicine or osteopathy, which  
2 operates an integrated multispecialty medical group providing  
3 comprehensive medical services predominantly for  
4 nonoccupational illnesses and injuries.

5 (C) The physician agrees to be predesignated.

6 (3) If the employer provides nonoccupational health care  
7 pursuant to Chapter 2.2 (commencing with Section 1340) of  
8 Division 2 of the Health and Safety Code, and the employer is  
9 notified pursuant to paragraph (1), all medical treatment, utilization  
10 review of medical treatment, access to medical treatment, and other  
11 medical treatment issues shall be governed by Chapter 2.2  
12 (commencing with Section 1340) of Division 2 of the Health and  
13 Safety Code. Disputes regarding the provision of medical treatment  
14 shall be resolved pursuant to Article 5.55 (commencing with  
15 Section 1374.30) of Chapter 2.2 of Division 2 of the Health and  
16 Safety Code.

17 (4) If the employer provides nonoccupational health care, as  
18 described in Section 4616.7, all medical treatment, utilization  
19 review of medical treatment, access to medical treatment, and other  
20 medical treatment issues shall be governed by the applicable  
21 provisions of the Insurance Code.

22 (5) The insurer may require prior authorization of any  
23 nonemergency treatment or diagnostic service and may conduct  
24 reasonably necessary utilization review pursuant to Section 4610.

25 (6) An employee shall be entitled to all medically appropriate  
26 referrals by the personal physician to other physicians or medical  
27 providers within the nonoccupational health care plan. An  
28 employee shall be entitled to treatment by physicians or other  
29 medical providers outside of the nonoccupational health care plan  
30 pursuant to standards established in Article 5 (commencing with  
31 Section 1367) of Chapter 2.2 of Division 2 of the Health and Safety  
32 Code.

33 (e) (1) When at the request of the employer, the employer's  
34 insurer, the administrative director, the appeals board, or a workers'  
35 compensation administrative law judge, the employee submits to  
36 examination by a physician, he or she shall be entitled to receive,  
37 in addition to all other benefits herein provided, all reasonable  
38 expenses of transportation, meals, and lodging incident to reporting  
39 for the examination, together with one day of temporary disability

1 indemnity for each day of wages lost in submitting to the  
2 examination.

3 (2) Regardless of the date of injury, “reasonable expenses of  
4 transportation” includes mileage fees from the employee’s home  
5 to the place of the examination and back at the rate of twenty-one  
6 cents (\$0.21) a mile or the mileage rate adopted by the Director  
7 of the Department of Personnel Administration pursuant to Section  
8 19820 of the Government Code, whichever is higher, plus any  
9 bridge tolls. The mileage and tolls shall be paid to the employee  
10 at the time he or she is given notification of the time and place of  
11 the examination.

12 (f) When at the request of the employer, the employer’s insurer,  
13 the administrative director, the appeals board, or a workers’  
14 compensation administrative law judge, an employee submits to  
15 examination by a physician and the employee does not proficiently  
16 speak or understand the English language, he or she shall be  
17 entitled to the services of a qualified interpreter in accordance with  
18 conditions and a fee schedule prescribed by the administrative  
19 director. These services shall be provided by the employer. For  
20 purposes of this section, “qualified interpreter” means a language  
21 interpreter certified, or deemed certified, pursuant to Article 8  
22 (commencing with Section 11435.05) of Chapter 4.5 of Part 1 of  
23 Division 3 of Title 2 of, or Section 68566 of, the Government  
24 Code.

25 (g) This section shall become operative on January 1, 2010.